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9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 ALFREDO SALAS-SILVA,
15 Defendant.

Case No. 3:20-cr-00054-RCJ-CLB

**REPLY TO GOVERNMENT'S
RESPONSE IN OPPOSITION TO
DEFENDANT'S MOTION TO
DISMISS**

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17 Mr. Salas-Silva, through his counsel, Christopher Frey, Assistant Federal Public
18 Defender, hereby replies to the Government's Response in Opposition to Defendant's Motion
19 to Dismiss. This reply is based on the attached points and authorities and any evidence or
20 argument presented at a hearing on this matter.¹

21 The government opposes Mr. Salas-Silva's Motion to Dismiss on two grounds. First,
22 the government contends that Mr. Salas-Silva failed to supply points and authorities, then cites
23 cases purporting to suggest that findings of fact cannot be judicially noticed. Mr. Salas-Silva is
24 not seeking to incorporate the *Carrillo-Lopez* court's findings of fact, only the moving party's
25 points and authorities and the record developed in that case. ECF No. 36.
26

¹ This reply is timely filed.

1 Similarly situated codefendants regularly join each other's respective pleadings, a
2 practice that enhances judicial economy by avoiding duplication and redundancy. The same is
3 true when defendants are separately indicted but are identically situated, such as Mr. Salas-
4 Silva and the defendant in *Carrillo-Lopez*. The statute is the same. The constitutional challenge
5 to the statute is also the same. Accordingly, incorporation by reference is a reasonable
6 mechanism to present identical arguments challenging 8 U.S.C. § 1326, as opposed to filing a
7 mirror-image pleading in this case in every respect except for the case caption.

8 The government is fully aware of the arguments made below in *Carrillo-Lopez*, which
9 explains the government's ability to offer a 10-page plus substantive response to the same as
10 an alternative ground for opposing Mr. Salas-Silva's motion. ECF No. 37 at 3-14. The
11 government cannot claim it is unfamiliar with the *Carrillo-Lopez* points and authorities and at
12 the same time offer a substantive rebuttal of them.

13 To the extent incorporating the points and authorities in *Carrillo-Lopez* is somehow
14 insufficient to apprise the government of Mr. Salas-Silva's constitutional challenge to 8 U.S.C.
15 § 1326, the original motion in *Carillo-Lopez* and exhibits are attached here. Exhibit A. Mr.
16 Salas-Silva has no objection if the government wishes to supplement its response should the
17 *Carrillo-Lopez* motion and exhibits raise an issue the government was not already familiar with.

18 Second, the government contends *Carrillo-Lopez* was incorrectly decided. The
19 government then proceeds to effectively incorporate by reference its opening brief on appeal in
20 *Carrillo-Lopez* and "its opposition to the motion to dismiss in *Carrillo-Lopez*." ECF No. 37 at
21 4. Mr. Salas-Silva likewise incorporates by reference the points and authorities submitted in the
22 *Carrillo-Lopez* reply and the *Carrillo-Lopez* answering brief on appeal. To the extent
23 incorporating the *Carrillo-Lopez* reply by reference is somehow insufficient, that pleading is
24 attached here, as those points and authorities apply equally to Mr. Salas-Silva. Exhibit B.
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26

1 DATED this 6th day of May, 2022.

2 RENE L. VALLADARES
3 Federal Public Defender

4 By: /s/ Christopher P. Frey

5 CHRISTOPHER P. FREY
6 Assistant Federal Public Defender
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CERTIFICATE OF ELECTRONIC SERVICE

The undersigned hereby certifies that she is an employee of the Federal Public Defender for the District of Nevada and is a person of such age and discretion as to be competent to serve papers.

That on May 6, 2022, she served an electronic copy of the above and foregoing REPLY TO GOVERNMENT'S RESPONSE IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS by electronic service (ECF) to the person named below:

CHRISTOPHER CHIOU
Acting United States Attorney
RANDOLPH J. ST. CLAIR
Assistant United States Attorney
400 South Virginia Street, Suite 900
Reno, NV 89501

/s/ Katrina Burden
Employee of the Federal Public Defender